

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

(Continuation of Register 2004, No. 8-Z, and Commission Meeting of February 6, 2004)

(NOTE: To be responsive to public input on proposed changes in the mammal hunting and trapping regulations, the Commission is exercising its powers under Section 202 of the Fish and Game Code. Some changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 203, 203.1, 331, 332, 1050, 1572, 3452, 3453, 4005, 4009.5, 4751, 4902 and 10502 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 331, 332, 460, 713, 1050, 1570-1572, 1801, 3452, 3453, 3800, 3950, 3951, 4005, 4009.5, 4330-4333, 4336, 4751, 4756, 4800-4805, 4902, 10500 and 10502 of said Code, has open to public review its regulations in Division 1, Title 14, California Code of Regulations, Part 2, Chapter 1, General Provisions and Definitions; Chapter 2, Resident Small Game; Chapter 3, Big Game; Chapter 4, Depredation; Chapter 5, Furbearing Mammals; and Chapter 6, Nongame Animals.

Proposed changes to sections as set forth in the first notice regarding Mammal Hunting and Trapping Regulations (Notice Register 2004, No. 8-Z, published February 20, 2004) remain the same, **except for additional public recommendations proposed for new Sections 311 and 708, and amendments made to subsection 360(c) and Section 364 (see Informative Digests below).**

Also, proposed changes to the Department of Fish and Game recommendation to amend sections 465, 465.5, 467, 475, and 478; and to add sections 458.1, 459, 459.1, 459.2, 465.6 and 468, Title 14, CCR has been withdrawn at the request of the Department. At the February 6, 2004 meeting of the Commission, the Department submitted an Initial Statement of Reasons for trapping regulations. All of these amendments and additions were submitted to allow compliance with Senate Bill 1645, passed in 2002, which required individuals for hire, trapping nuisance wildlife, to obtain a trapping license issued by the Department. During the effort to incorporate suggestions from interested parties with diverse opinions, it has become obvious that there are a number of technical legal questions that must be answered before we can proceed with regulatory changes involving trapping. We are removing these sections from any consideration for change under this rulemaking. The Department of Fish and Game will continue to work with their legal staff, and request to go to notice for changes to the trapping regulations at the Commission's June 25, 2004 meeting.

Pursuant to the provisions of sections 203 and 203.1 of the Fish and Game Code, the Fish and Game Commission will consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony in adopting season, bag and possession limits, and areas of take, and prescribe the manner and means of taking as part of the 2004-2007 Mammal Hunting and Trapping Regulations.

Section 311, Title 14, California Code of Regulations

Re: Methods Authorized for Taking Resident Small Game

Informative Digest/Policy Statement Overview

Section 311 of Title 14 of the California Code of Regulations lists methods authorized for taking resident small game. Subsection 311(g) provides for the use of box traps to take rabbits, but restricts this method of take to San Diego County. The proposed change would extend the use of box traps for taking rabbits to Orange County. This change was requested by members of an association of homeowners to provide hunting opportunity for rabbits in an area where the use of firearms and air rifles is prohibited, and to help alleviate damage caused by a large population of cottontails to ornamental plants.

Subsection 360(c), Title 14, California Code of Regulations Re: Deer: Additional Hunts
Informative Digest/Policy Statement Overview

Existing regulations for Additional Hunt G-10 (Camp Pendleton Either-Sex Deer Hunt) provide for hunting on Saturdays and Sundays for ten consecutive weekends. In certain years, the ten weekend season concludes prior to the Thanksgiving Day holiday weekend due to calendar shifts, resulting in a reduction of hunter opportunity. In addition, certain federal holidays occur on weekdays when the base is normally closed and additional hunter opportunity is lost. The proposal would modify the season to specifically include: the Columbus Day and Veterans Day holidays, the day after Thanksgiving, and permit hunting to occur through the Sunday following Thanksgiving Day, therefore providing an increase in hunter opportunity as requested by the Base, while maintaining consistency with existing deer herd management plan recommendations.

Existing regulations for Additional Hunt G-13 (San Diego Antlerless Deer Hunt) provide for a sixteen day season beginning the fourth Saturday in October. The Department has received numerous requests from the local public to increase opportunity on this hunt by extending the season length. The proposal would add seven days to the end of the current season, therefore meeting a specific public demand for additional hunting opportunity, while maintaining consistency with existing deer herd management plan recommendations.

Existing regulations provide for a general deer hunting season, including area description, season, bag and possession limit, and number of tags for hunting deer during the general season in Zone X-9a (Section 360 (b)(13)(A-D), title 14, CCR). Deer residing in Zone X-9a are from two different herds, the Casa Diablo Deer Herd and the Round Valley Deer Herd (formerly Buttermilk and Sherwin Grade Deer Herds). These two herds differ drastically with regard to herd distribution and the proportion of bucks available during the general hunting season. This condition has resulted in a disproportionately higher hunter effort and increased buck harvest, and buck ratios below objectives on the Casa Diablo herd, while the converse exists on the Round Valley herd. The proposal creates a new additional hunt, G-39 (Round Valley Late Season Buck Hunt). The area description would be the same as those described for additional hunt J-12. The season would begin the fourth Saturday in October and continue for sixteen consecutive days. The bag and possession limit would be one buck, forked horn or better, per tag with a tag quota range of 5-150 tags. The creation of this hunt would meet an expressed public demand for additional late season buck hunting opportunity and be consistent with existing deer herd management plan recommendations by providing a more equitably distribution of hunter effort and buck harvest within the Zone X-9a deer herds.

Existing regulations provide deer hunting area descriptions, seasons, bag and possession limits, and number of tags for Zone C-4. The zone currently provides limited special junior deer hunting opportunity. The proposal creates a new additional hunt, J-21 (East Tehama Junior Either-Sex Deer Hunt). The area would include the Tehama County portion of Zone C-4. The season would begin the third Saturday in September (Zone C-4 opening) and continue 44 consecutive days (close with Hunt G-1). The bag and possession limit would be one, either-sex deer with a recommended tag quota range of 20-80 tags. Special conditions would be: junior license holders only may apply, and junior hunters must be accompanied by an adult chaperon, 18 years of age or older. This proposal would meet an expressed public demand for increasing hunting opportunity for young hunters, maintain appropriate harvest levels in the Zone C-4 deer herds, and be consistent with existing deer herd management plan recommendations.

Some minor editorial changes are necessary for consistency in subsection numbering, spelling, grammar, and clarification.

Pursuant to Fish and Game Section 459, a public meeting was held and a letter of resolution in opposition to Hunt J-16 was received from the Butte County Boards of Supervisors, thus invoking their veto authority over either-sex hunt J-16. The proposed change would modify Hunt J-16 by excluding Butte County from the area description.

Existing regulations provide for the number of hunting tags for the additional hunts. The proposal changes the number of tags for existing hunts to a series of ranges presented in the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

| Deer: § 360(c) Additional Hunts Tag Allocations | | | | | |
|--|------------------------------|--------------------------------|------|----------------------------|--------------------------------|
| Hunt | Current | Proposed | Hunt | Current | Proposed |
| G-1 | 3,500 | 500-5,000 | M-11 | 20 | 20-200 |
| G-3 | 25 | 5-50 | MA-1 | 150 | 20-150 |
| G-6 | 50 | 25-100 | MA-3 | 150 | 20-150 |
| G-7 | 20 Military * | 20 Military * | J-1 | 25 | 10-25 |
| G-8 | 30 Military * 30 Public | 10-80 Military * and Public | J-3 | 15 | 15-30 |
| G-9 | 15 Military * 15 Public | 15 Military * 15 Public | J-4 | 15 | 15-50 |
| G-10 | 300 Military * | 100-480 Military * | J-7 | 15 | 10-30 |
| G-11 | 500 Military * and DOD ** | 500 Military * and DOD ** | J-8 | 15 | 10-20 |
| G-12 | 30 | 25-75 | J-9 | 5 | 5-10 |
| G-13 | 300 | 50-300 | J-10 | 10 Military * 30 Public | 10-80 Military * and Public |
| G-19 | 35 | 10-65 | J-11 | 40 | 10-50 |
| G-21 | 25 | 25-100 | J-12 | 10 | 10-20 |
| G-37 | 25 | 25-50 | J-13 | 40 | 25-100 |
| G-38 | 300 | 50-300 | J-14 | 30 | 15-75 |
| G-39 | New | 5-150 | J-15 | 10 | 5-30 |
| M-3 | 60 | 20-75 | J-16 | 75 | 10-75 |
| M-4 | 5 | 5-50 | J-17 | 25 | 5-25 |
| M-5 | 10 | 5-50 | J-18 | 75 | 10-75 |
| M-6 | 80 | 25-100 | J-19 | 25 | 10-40 |
| M-7 | 150 | 50-150 | J-20 | 20 | 5-20 |
| M-8 | 10 | 5-75 | J-21 | New | 20-80 |
| M-9 | 5 | 5-100 | | | |

* *Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs.*

** *DOD = Department of Defense*

**Section 364, Title 14, California Code of Regulations Re: Elk
UPDATED INFORMATIVE DIGEST (Policy Statement Overview)**

Existing regulations specify elk license tag quotas for each hunt. It is necessary to adjust quotas periodically, in response to dynamic environmental and biological conditions. This proposed amendment makes the following specific changes in license tag quotas: Increase the quota for the Siskiyou Roosevelt Elk Hunt from 25 either-sex tags to 15 antlerless and 15 either-sex tags; Reduce the quota for the Klamath Roosevelt Elk Hunt from 15 antlerless and 15 bull tags to 10 antlerless and 10 bull tags; Reduce the archery only quota for the Northeastern California Rocky Mountain Elk Hunt from 7 either-sex to 5 either-sex tags; Reduce the archery only quota for the Owens Valley Tule Elk Hunt from 7 either-sex to 5 either-sex tags; Change the quota for the Fort Hunter Liggett Tule Elk Hunt from 20 antlerless and 14 bull tags to 40 antlerless tags (10 of them designated archery only), 6 either-sex tags (designated archery only) and 14 bull tags. Periodic quota changes are necessary to maintain hunting quality in accordance with management goals and objectives.

Existing regulations specify boundaries for the Siskiyou Roosevelt and Northeastern California Rocky Mountain Elk hunts. The proposed change expands the Siskiyou zone eastward and concomitantly reduces the Northeastern zone. Expansion of the Siskiyou zone is warranted; elk wintering in the Siskiyou hunt area often move across the existing boundary into the area proposed for inclusion within the Siskiyou zone. Adjustment of boundaries will improve hunting opportunities and facilitate increasing the quota for the Siskiyou hunt. The proposed amendment will have minimal effect on hunt opportunity within the Northeastern California zone because this zone is large and the greatest concentrations of elk occur within eastern portions that are unaffected by the boundary adjustment.

Existing regulations specify boundaries for the Big Lagoon Roosevelt Elk Hunt. Non-substantive changes are proposed to simplify and clarify the boundary description.

Existing regulations specify boundaries for the La Panza Tule Elk Hunt. The proposal expands the La Panza boundary, consistent with the natural range expansion of tule elk which has occurred since this hunt was established in 1993. The proposal is necessary to improve hunter opportunity and is consistent with management objectives for tule elk in the area.

Existing regulations make no provision for public tule elk hunting in the Owens Valley west of US Highway 395. The proposal will establish the West Tinemaha Zone on the west side of Highway 395 near Tinemaha Reservoir, with 6 bull and 6 antlerless tags (designated archery only and evenly distributed among three hunt periods), valid for both the Tinemaha and West Tinemaha zones. Establishing a new tule elk hunt zone in the Owens Valley will provide additional elk hunting opportunities and is consistent with statewide management objectives for tule elk.

Existing regulations do not provide for public tule elk hunting in Colusa and Glenn counties near East Park Reservoir. The proposal will establish a new tule elk hunt in the vicinity of East Park Reservoir, with 2 bull and 2 antlerless elk tags divided among three hunt periods in September. The proposal will provide additional elk hunting opportunities, consistent with the statewide management objectives for tule elk.

Existing regulations specify season dates for two hunt periods for the Fort Hunter Liggett Tule Elk Hunt. The proposed change will move the opening dates for Period One to the fourth Wednesday in November, and Period Two to the Wednesday after the second Saturday in December. Length of these hunt periods remains unchanged at 5 consecutive days. The proposal establishes season dates for Period Three, which will open on the last Wednesday in December and continue for 5 consecutive days. The proposal also establishes an Archery Only Season on weekends (Saturdays and Sundays) and the Labor Day Holiday in September. Significantly increasing the tag quota for the Fort Hunter Liggett Tule Elk Hunt requires modifying existing season dates and establishing two additional hunt periods to meet hunter demand. Minor editorial changes are proposed to improve clarity and consistency of the regulations. Specifically, the amendment updates the year to 2004 and makes other minor changes to reduce redundancy.

Based on constructive public input, regulatory language in the Initial Statement of Reasons was changed to establish an earlier season for the Owens Valley Tule Elk fund-raising hunt. This hunt will begin on the last Saturday in July and continue for 30 consecutive days. An earlier season will improve hunter satisfaction by allowing bulls to be taken when the condition of their antlers is optimal.

**Section 708, Title 14, California Code of Regulations
Re: Big Game License Tag, Application, Distribution and Reporting Procedures
INFORMATIVE DIGEST (Policy Statement Overview)**

Existing regulations reference the 2003/2004 hunting license year and include outdated revision dates on hunting application forms for deer, Nelson bighorn sheep, antelope, elk and bear. Leaving these outdated references will create an inconsistency between the actual forms and regulatory language. The proposed changes would update references to the application forms in order to reflect the new license year and form revision dates, thereby eliminating any confusion.

Existing regulations provide for the purchase of resident wild pig license tags in packets of five (5) tags. Recent changes in Fish and Game Code Section 4654 specify that resident wild pig license tags shall be sold individually. Leaving the reference to "packets of five" tags will create an inconsistency between regulatory language and Fish and Game Code and may lead to confusion. The proposed change would eliminate references to resident wild pig license tags being available in "packets of five" and specify that resident wild pig license tags are available individually, thereby eliminating any confusion.

Existing regulations provide fees for various big game applications and tags including: deer tag exchange fees; and application and tag fees for bighorn sheep, antelope and elk. Pursuant to Section 713, Fish and Game Code, these fees are adjusted annually based on a calculated cost-of-living adjustment. The proposed changes would revise fees listed in Section 708 for consistency with Section 713 adjustments.

Existing regulations provide specific mailing addresses for submitting big game applications. The proposed change deletes all references to these addresses and specifies a mailing address directly on the application.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Resources Building Auditorium, 1416 Ninth Street, Sacramento, CA, on April 2, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested that all written comments be submitted on or before April 6, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov. All correspondence, including E-mail, must include the true name and mailing address of the commenter.

NOTICE IS FURTHER GIVEN that any person interested may be present at a hearing relevant to this action to be held at a teleconference meeting in the Resources Building Room 1320 Conference Room, 1416 Ninth Street, Sacramento, CA, on April 22, 2004, at 10:00 a.m., to consider adoption of the proposed Mammal Hunting Regulations for the 2004 - 2007 seasons. Additional testimony on the proposed regulations will be received on substantive changes or if regulatory alternatives are under consideration.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Jon Snellstrom at the preceding phone number. John Carlson, (916) 445-3555, Branch Chief, Wildlife Programs Branch, has

been designated to respond to questions on the substance of the proposed regulations. Copies of the initial statement of reason, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

Section 311, Re: Methods Authorized for Taking Resident Small Game

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation change is sufficiently minor that there would be no significant economic impact to businesses.

Subsection 360(c), Deer: Additional Hunts

The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

Section 364, Elk

The agency is not aware of cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action adjusts tag quotas for existing hunts, adjusts hunt boundaries, and establishes new hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

Section 708, Big Game License Tag, Application, Distribution and Reporting Procedures

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action updates administrative form references and revision dates for clarification within the regulation, provides consistency with Fish and Game Code; adjusts fees pursuant to Section 713, and is economically neutral to business.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or

the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated March 9, 2004

Robert R. Treanor
Executive Director